

21543



03-24-05

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IN THE U.S. PATENT AND TRADEMARK OFFICE

Certificate of Express or First-Class Mailing

I hereby certify that I have deposited this correspondence with the US Postal Service as first-class or, if a mailing-label number is given below, as express mail addressed to Comm. of Patents, Washington, DC 20231, on the below given date.

MAR 18 2005

Date
EV467342379

Express-mail label number

Signature

Inventor Horst FÄRBER
Patent App. 09/603,528
Filed 23 June 2000 Conf. No. 9899
For SAMPLING TUBE AND METHOD OF MAKING SAME
Art Unit 1732 Examiner Fontaine, M
Hon. Commissioner of Patents
Box 1451
Alexandria, VA 22313-1451

REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT OR, IN THE ALTERNATIVE, PETITION FOR REVIVAL UNDER 37 CFR 1.137(a) ON THE GROUND THAT THE DELAY IN REPLY WAS UNAVOIDABLE, OR, IN THE ALTERNATIVE UNDER 37 CFR 1.137 (b) ON THE GROUND THAT THE DELAY IN REPLY WAS UNINTENTIONAL

STATEMENT OF FACTS

In this application a Final Office Action issued 15 January 2004.

In response to that Final Action, a response entitled Amendment After Final Action, a copy of which is attached as Exhibit A was filed on 8 July 2004 together with a petition for automatic extension for reply, a copy of which is attached as Exhibit B, and a credit card charge form covering the fee, a copy of which is attached as Exhibit C. Since the three-month extension

term expired 15 June 2004 and there was no substantial opportunity to respond to that Amendment, simultaneously on 8 July 2004 a Request for Continued Examination was made (Exhibit D) and the fee for the continued examination was tendered in the form of a credit card charge, Exhibit E.

That all those documents were transmitted together is evidenced from the attached supporting Declaration of Arlene Bernstein, the docket clerk of the undersigned responsible for the outgoing mail and is demonstrated by Exhibit F which is a copy of the outgoing mail log showing that the amendment, the extension and the continuation request were included in an express mail package EV031252548 that was mailed on 8 July 2004

A copy of the postcard receipt is attached as exhibit G and acknowledges all of the papers, namely the Amendment After Final Action, the petition for a three-month extension of the term, the PTO 2038 form covering the extension, the Request for Continued Examination and the PTO 2038 for the filing of the Request for Continued Examination.

The office of the undersigned noted on 9 July 2004 that the Request for Continued Examination was not in its usual form and consequently on 9 July 2004 filed the proper form, a copy of which is attached as Exhibit H. That request was submitted with a copy of the charge form (Exhibit I) and received a postcard acknowledgement as of 9 July 2004 (Exhibit J).

Thus on 9 July 2004, within the extended term covered by the extension fees, there were on file in the Patent and Trademark Office the following documents:

An Amendment After Final Action,

A request for a three-month extension of the term running to 15 July 2004,

A charge form covering the fee for the extension,

A Request for Continued Examination in proper form,

A charge form covering the fee for the Request for Continued Examination.

Notwithstanding the fact that on 9 July 2004 within the extended term, the papers required for Continued Examination including the amendment which was to be entered as part of that request were properly on file and all fees had been tendered, the Office, reacting to the original incorrect RCE, sent a Notice to the undersigned to the effect that the RCE was improper.

A telephone call was placed to a Ms. Nicole Hensley of the PTO, whose name appeared at the foot of that Notice and the situation was explained to her. She claimed to understand the situation and asked that the documents be copied and forwarded to her and she would straighten the matter out. The documents including the exhibits here were forwarded to Ms. Hensley by telefax of 29 September 2004. The undersigned heard nothing further from Ms. Hensley and has received a communication mailed 11 March

2005 indicating that this case stands abandoned for lack of receipt of a reply.

REQUEST FOR WITHDRAWAL OF THE HOLDING OF ABANDONMENT

From the foregoing set of facts and based upon the exhibits provided and the supporting Declaration, it is clear that as of 9 July 2004, within the term ending 15 July 2005 covered by the extension request and the fees paid, there was a proper Request for Continued Examination and amendment on file in this case.

The Notice of Abandonment should be withdrawn and the application reinstated with the Request for Continued Examination on record and in turn an Action following the Request for Continued Examination and on the application as amended should be issued.

ALTERNATIVE PETITION FOR REVIVAL

While there should be no need for a Petition for Revival on any ground since this application did not in fact become abandoned, should for some reason the application be treated as abandoned, it is requested that this paper and its exhibits and the supporting Declaration be treated as a Petition for Revival under 37 CFR 1.137(a) since from the facts given, it is clear that any abandonment occurred wholly outside the control of applicant or the undersigned.

The abandonment, if any, occurred under conditions which were not avoidable by applicant or the undersigned. The response

required by 37 CFR 1.137(a) is of record. Should any fee be required for this petition, it may be applied to the Deposit Account 18-2025 of the undersigned.

ALTERNATIVE PETITION FOR REVIVAL

While in the foregoing it has been demonstrated that this application never in fact became abandoned or that any abandonment, if it occurred, was unavoidable, should this case not be capable of reinstatement on the grounds previously requested, it is requested here that this application be revived under 37 CFR 1.137(b) since throughout, the record shows that there never was any intention to abandon this application.

The response required by 37 CFR 1.137(b) is of record in the file and the fee for this alternative petition can be charged to the Deposit Account 18-2025 of the undersigned.

Applicant is entitled to small-entity status.

Favorable action is requested.

Respectfully submitted,
The Firm of Karl F. Ross P.C.

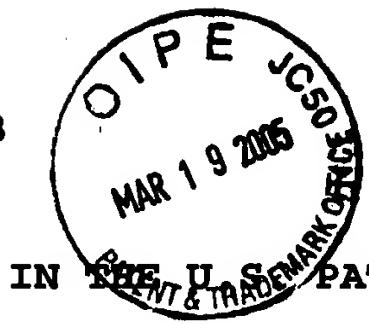
By: ~~Herbert Dubno, Reg. No. 19,752~~
Attorney for Applicant

ef-

March 17, 2005
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

Enclosures: Exhibits A-J
Supporting Declaration

21543



IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor Horst FÄRBER
Patent App. 09/603,528
Filed 23 June 2000 Conf. No. 9899
For SAMPLING TUBE AND METHOD OF MAKING SAME
Art Unit 1732 Examiner Fontaine, M
Hon. Commissioner of Patents
Box 1451
Alexandria, VA 22313-1451

**DECLARATION IN SUPPORT OF PETITION FOR WITHDRAWAL OF HOLDING OF
ABANDONMENT**

ARLENE BERNSTEIN DECLARES;
THAT she is a citizen of the United States residing at
Riverdale, NY;
THAT she is a docket clerk for the firm of Karl F. Ross,
PC, 5676 Riverdale Avenue, Riverdale, NY 10471, attorneys of record
in the above application and has been the docket clerk for said
firm for twenty-four years and is responsible for transmitting
documents to the Patent and Trademark Office;
THAT on 8 July 2004 she placed the Amendment After Final
Action in this case (Exhibit A), the Request for Extension of a
three-month term for reply, the PTO 2038 form covering the fee, the
original Request for Continued Examination and the PTO 2038 form

covering the fee for continued examination in a package assigned the express mail No. EV031252548 and endorsed the appropriate mailing stamp to that effect including on the postcard receipt;

THAT she then arranged for pickup and has been informed that that package timely reached the Patent Office and that the documents contained in that package all should have been awarded the filing date of 8 July 2004;

THAT on the next day she noted that the Request for Continued Examination filed on 8 July 2004 did not conform to the usual form used by this office and arranged for the filing of the proper form on 9 July 2004 within the term of 15 July 2004 covered by the extension;

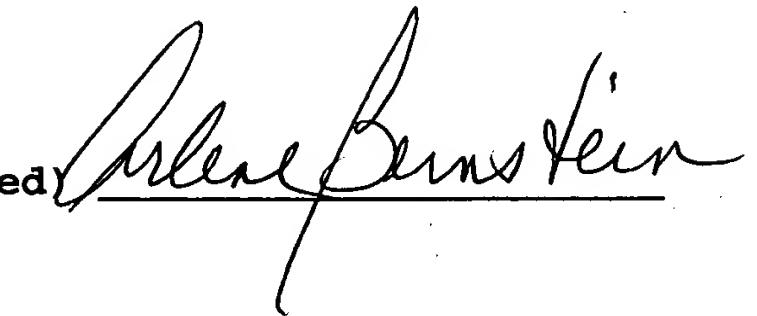
THAT on receipt of a Notice of Improper RCE) filing, she contacted Ms. Nicole Henley and transmitted to her by telefax copies of all of the papers and explained the situation, pointing out that on 9 July 2004 the proper Request for Continued Examination was of record in the case;

THAT the undersigned hereby declares that all statements made herein of the undersigned's own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable

by fine or imprisonment, or both, under 18 USC 1001 and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date March 18, 2015

(signed)



21543 **EXPEDITED HANDLING BOX AF**

IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor **Horst FÄRBER**
Patent App. **09/603,528**
Filed **23 June 2000**
For **SAMPLING TUBE AND METHOD OF MAKING SAME**
Art Unit **1732**

Hon. Commissioner of Patents
Mail Stop AF
Box 1450
Alexandria, VA 22313-1450



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_____ Date

_____ Express-mail label number

_____ Signature

Conf. No. 9899

Examiner **Fontaine, M**

COPY

AMENDMENT AFTER FINAL ACTION

In response to the Office Action mailed 15 January 2004,
please amend the above-identified application as follows:

- a. There are no changes in the specification.
- b. Amendment to the claims is attached.
- c. Remarks follow the above.
- d. Petition for a three month extension is attached with a credit form.
- e. Continued examination is requested with attachment of a credit form for the requisite fee.

EXHIBIT

A handwritten signature, appearing to be the letter "A", is written over a horizontal line within a rectangular box.

CLAIM AMENDMENT

1 1. (currently amended) A method of making a sample tube
2 ~~especially to receive a biological sample~~, comprising the steps of:
3 injection molding an intermediate tube in one piece with
4 a cylindrical wall and an a conical intermediate bottom spaced
5 between ends thereof, integral with said wall and having an apex
6 turned toward an end of said intermediate tube thereby forming a
7 well adapted to receive a biological sample; and
8 heating said an end of said intermediate tube and press-
9 ing edges of said end inwardly toward an axis of said intermediate
10 tube to thermally reform said tube and provide at least a partial
11 bottom end for the sample tube; and
12 rounding the bottom end of the sample tube outside an
13 injection mold in which said tube is formed by pressing a heated
14 stamp thereagainst to cause said bottom end of said sample tube to
15 be shaped to a concavity of a concave recess of said stamp and to
16 be only partially closed by said stamp whereby said bottom end is
17 self-orienting upon insertion of the sample tube into a stand to
18 permit removal of the biological sample from said well by a pi-
19 pette.

2. - 4. (canceled)

1 5. (currently amended) The method defined in claim 4 1
2 wherein said stamp heats said intermediate tube to a temperature at
3 least equal to the flow temperature of a thermoplastic synthetic
4 resin constituting said intermediate tube.

6. - 9. (canceled)

REMARKS:

The present amendment is submitted in an earnest effort to advance this case to issue without delay.

1. Claim 1 has been amended to remove the functional statement with respect to the biological sample from the preamble and to insert it into the body of the claim as part of a structural limitation to ensure that it has due patentable weight. This is intended to assist in distinguishing the claimed sampling tube and method of making it from a tampon inserter.

In addition, claim 1 has been amended to specifically recite the step of forming the intermediate bottom (5) so that it is integral with the wall (2) and of conical shape with its apex pointed in the direction of the end of the tube to be formed with a rounded bottom.

In addition, claim 1 has been amended to expressly state that the rounding of the bottom which takes place externally of the mold in which the tube is formed, only partly closes the bottom and provides a bottom which renders the tube self-orienting to facilitate removal of a sample by a pipette (page 10, lines 16-19).

Claims 2 and 4 have been canceled along with claims 6-9 which have been withdrawn from consideration as directed to a nonelected invention and for which a divisional application may be filed. Claim 5 has been amended to be directly dependent from claim 1.

Claims 1 and 5 are in the case.

2. Applicant appreciates the fact that the rejection of claim 1 as anticipated by GUEST (A) and as obvious from KLIMASZEWSKI, JR. (B) have been withdrawn and that there is no longer any rejection of GUEST in view of HUANG (C).

3. As noted, applicant reserves the right to divide for claims 6-9.

4. The rejection of claims on BERGER et al (A) under 35 USC 102(b) is respectfully traversed even without the present amendments to claim 1. Applicant does not agree that the recitation in a preamble *ipso facto* precludes reliance upon a limitation so recited. The Examiner has cited, for example, *In re Hirao*, 190 USPQ 15, for its proposition and applicant cannot see that case as standing for that which the Examiner has stated. In the HIRAO case, the issue was a product by process and the question as to the preamble was whether the preamble contributes. There the preamble merely recited the purpose of the process which did not depend upon the preamble for completeness. In fact the issue was could the process steps stand alone, and they did. The issue of whether the preamble could contribute to distinguishing over the art was not the issue in that case.

In the KLIMASZEWSKI, Jr. case cited by the Examiner, the question was whether the preamble could be a limitation where the portion of the claim was a self-contained description. In that case the court expressly noted that there are situations where the

preamble gave life, meaning and vitality to a claim. Where is that more important than in a case like the present where it gives life and meaning to the making of a sample tube to underscore its distinction from a tampon inserter.

Furthermore applicant cannot find in BERGER et al any teaching of the molding of an intermediate bottom spaced between ends of the tube, and that alone would remove claim 1 from anticipation by BERGER et al. (Note that an intermediate bottom would likely prevent the tube from being used as a tampon inserter at all). The original rejection of claims as anticipated by BERGER et al cannot stand

5. To avoid any suggestion that claims 1 and 5 might be obvious from BERGER et al, claim 1 has been amended to require the tube to have a well which can receive a biological sample, and the bottom to be only partially closed and self-orienting to allow pipetting of the sample from the well. None of that is in any way suggested by BERGER et al.

Claims 1 and 5 are thus deemed to be allowable.

6. A petition for an automatic three month extension of the term for reply is enclosed. A charge form for the extension fee is also enclosed.

7. Since the Office Action has been made Final here, this application is also accompanied by a formal request for

continued examination together with a charge form covering the fee..

Further and favorable action is urged.

Respectfully submitted,
The Firm of Karl F. Ross P.C.


By: ~~Herbert Dubno~~, Reg. No. 19,752
Attorney for Applicant

ef-

8 July 2004
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

Enclosures: Petition for 3 mo. ext.

Chg fm for \$950.

Request for cont'd exam.

Chg fm for \$770.

21543 EXPEDITED HANDLING BOX AF

IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor **Horst FÄRBER**

Patent App. P E **09/603,528**

Filed **23 June 2000**

For **SAMPLING TUBE AND METHOD OF MAKING SAME**

Art Unit **1732**

Conf. No. **9899**

Hon. Commissioner of Patents
Mail Stop AF
Box 1450
Alexandria, VA 22313-1450

Examiner **Fontaine, M**



COPY

PETITION FOR AUTOMATIC EXTENSION FOR REPLY (37 CFR 1.136)

The above-identified applicant petitions for an extension of the term for reply and encloses a fee as follows:

<input checked="" type="checkbox"/>	First month	\$110/55	\$110.00
<input checked="" type="checkbox"/>	Second month	\$310/155	\$310.00
<input checked="" type="checkbox"/>	Third month	\$530/265	\$530.00
<input type="checkbox"/>	Fourth month	\$530/265	\$00.00
	Total		\$950.00

Applicant is a **LARGE** entity.

- Credit-card Payment Form (PTO-2038) enclosed.
- Charge to account 18-2025 if payment is not enclosed or enclosed payment is insufficient.

Respectfully submitted,
The Firm of Karl F. Ross P.C.

by: **Herbert Dubno, 19,752**
Attorney for Applicant

ef-

8 July 2004
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

Enclosure: PTO-2038

Certificate of Express or First-Class Mailing

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Date

Express-mail label number

Signature

EXHIBIT

COPY

United States Patent & Trademark Office

Credit-Card Payment Form

COPY



Credit Card Information

Credit Card Type	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard	<input checked="" type="checkbox"/> Amex	<input type="checkbox"/> Discover
Credit Card Account #:	3727 136 379 21006			
Credit Card Exp. Date:	05/08			
Name on Credit Card:	HERBERT DUBNO			
Payment Amount US\$:	\$950.00			
Signature:	[Handwritten signature]			
	Date:	8 Jul. 2004		

Credit-Card Billing Address

Street Address 1:	PO Box 900		
Street Address 2:			
City:	Bronx		
State:	NY	Zip/Postal Code:	10471
Country:	USA		
Daytime Phone:	718 884 6600	Fax:	718 601 1099

Request and Payment Information

Description of Request and Payment Information:

3rd Ext. large-1253

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Pat. Maint. Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 09/603,528	Application No.	Serial No.	IDON Customer No.
Patent No. None	Patent No.	Registration No.	
Attorney Docket No. 21543		Mark	

207978

8 July 2004

EXHIBIT

C

COPY

21543 EXPEDITED HANDLING BOX AF

IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor **Horst FÄRBER**
Patent App. **09/603,528**
Filed **23 June 2000**
For **SAMPLING TUBE AND METHOD OF MAKING SAME**
Art Unit **1732**

Conf. No. **9899**

Hon. Commissioner of Patents
Mail Stop AF
Box 1450
Alexandria, VA 22313-1450

Examiner **Fontaine, M**



REQUEST FOR CONTINUED EXAMINATION

Request is hereby made for continued examination in the above case. A charge form for the large entity fee is enclosed.

Respectfully submitted,
The Firm of Karl F. Ross P.C.

By: **Herbert Dubno, Reg. No. 19,752**
Attorney for Applicant

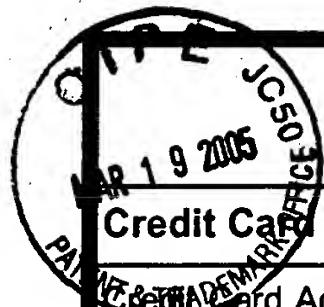
ef-
8 July 2004
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

Enclosures: PTO-2038

EXHIBIT

D

United States Patent & Trademark Office
Credit-Card Payment Form



Credit Card Information

Credit Card Type	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard	<input checked="" type="checkbox"/> Amex	<input type="checkbox"/> Discover
Credit Card Account #:	3727 136 379 21006			
Credit Card Exp. Date:	05/08			
Name on Credit Card:	HERBERT DUBNO			
Payment Amount US\$:	\$770.00			
Signature:	Date:			8 Jul. 2004

Credit-Card Billing Address

Street Address 1:	PO Box 900		
Street Address 2:			
City:	Bronx		
State:	NY	Zip/Postal Code:	10471
Country:	USA		
Daytime Phone:	718 884 6600	Fax:	718 601 1099

Request and Payment Information

Description of Request and Payment Information:

PETITION--1460

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Pat. Maint. Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 09/603,528	Application No.	Serial No.	IDON Customer No.
Patent No. None	Patent No.	Registration No.	
Attorney Docket No. 21543		Mark	

207979 ef-

8 July 2004

EXHIBIT



21543

Ser. No. 091603,528

JUL - 8 2004

EV031252548

0008 3 330

422516 C. Harvath - DM (9 July)
22654 Nessel - SC 1000 (9 July)
X 21543 Farber cont. Ex & DM (9 July)
22593 Kulke 1449 + TDS - G 1000 (9 July)

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EXHIBIT

F

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,528	06/23/2000	HORST FARBER	21543	9899

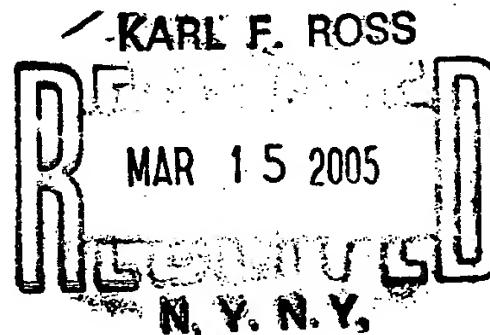
535 7590 03/11/2005
THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX), NY 10471-0900



EXAMINER	
PONTAINE, MONICA A	
ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



REST AVAILABLE COPY

Notice of Abandonment

Application No.	09/603,528	Applicant(s)
Examiner	Monica A Fontaine	FARBER, HORST
Signature	Maf	Art Unit
		1732

MAP 19 2005 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on 15 January 2004.

(a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

(b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

(d) No reply has been received.

2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
(c) The issue fee and publication fee, if applicable, has not been received.

3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

(b) No corrected drawings have been received.

4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. The reason(s) below:



MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

BEST AVAILABLE COPY

Attn: Ms. Nicole Hensley

21543; Horst FARBER

AMENDMENT AFTER FINAL AGREEMENT
Enc1s: Pet. for 3 mo. ex
PTO-2038 for \$950
Req. for cont'd exam
PTO-2038 for \$770

S.N. 09/603,528

DUE: 15 JUL 04

JUL 06 2004



CERTIFICATE OF EXPRESS MAILING
FIRST CLASS MAILING
Priority, early and full correspondence by being
mailed with the United States Postal Service
in accordance with mailing label is provided by
an envelope addressed to: Correspondence
Patents and Trademarks, U.S. Patent and
Trademark Office, Washington, D.C. 20591, on
JUL 06 2004
(Date of deposit)

EV034252548

Express Mail Label Number

U.S. Patent and
Trademark
Office
P.O. Box
Washington, D.C.
20591-0000

Attn: Ms. Nicole Hensley

EXHIBIT

REFT AVAILABLE COPY

21543

PTO/SB/30

Request For Continued Examination (RCE) Transmittal	Application Number	09/603,528
	Filing Date	23 June 2000
	First Named Inventor	FÄRBER, H.
	Group Art Unit	1732
	Examiner Name	Fontaine, M
	Attorney Docket Number	21543



This is a Request for Continued Examination under 37 CFR 1.114 of the above-identified application.

1. Submission required under 37 CFR 1.114

- a. Previously submitted
 - i. Consider the amendment(s)/reply under 37 CFR 1.116 filed 8 July 2004.
 - ii. Consider the arguments in the Appeal Brief or Reply brief filed _____.
 - iii. Other _____.
- b. Enclosed
 - i. Amendment/Reply
 - ii. Affidavit(s)/Declaration(s)
 - iii. Information Disclosure Statement (IDS)
 - iv. Other _____.

COPY

2. Miscellaneous

- a. Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months.
- b. Other _____.

3. Fees

- a. The Director is hereby authorized to charge the following fees or credit any overpayments to deposit account 18-2025.
 - i. RCE fee required under 37 CFR 1.17(e).
 - ii. Extension of time fee under 37 CFR 1.136 or 1.17
 - iii. Other _____.
- b. Check in the amount of \$ _____.
- c. Payment by credit card previously submitted (PTO-2038 copy attached).

SIGNATURE OF ATTORNEY

Name	Herbert Dubno	Reg. No.	19752
Signature	[Handwritten signature of Herbert Dubno]		
	Date	9 July 2004	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the the United States Postal service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, Box Request for Continued Examination, Washington, D.C. 20231 on: 9 July 2004.

Name	Arlene Bernstein	EV031252551
Signature	[Handwritten signature of Arlene Bernstein]	
	Date	9 July 2004

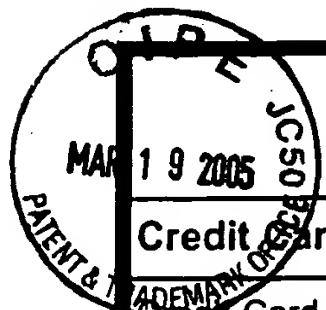
EXHIBIT

H

COPY

United States Patent & Trademark Office
Credit-Card Payment Form

COPY



Credit Card Information

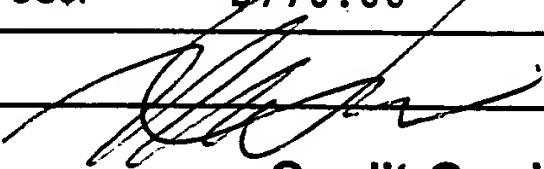
Credit Card Type Visa MasterCard Amex Discover

Credit Card Account #: 3727 136 379 21006

Credit Card Exp. Date: 05/08

Name on Credit Card: HERBERT DUBNO

Payment Amount US\$: \$770.00

Signature:  Date: 8 Jul. 2004

Credit-Card Billing Address

Street Address 1: PO Box 900

Street Address 2:

City: Bronx

State: NY Zip/Postal Code: 10471

Country: USA

Daytime Phone: 718 884 6600 Fax: 718 601 1099

Request and Payment Information

Description of Request and Payment Information:

Petition--1460 (RCE)

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Pat. Maint. Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 09/603,528	Application No.	Serial No.	IDON Customer No.
Patent No. None	Patent No.	Registration No.	
Attorney Docket No. 21543		Mark	

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8 July 2004

EXHIBIT

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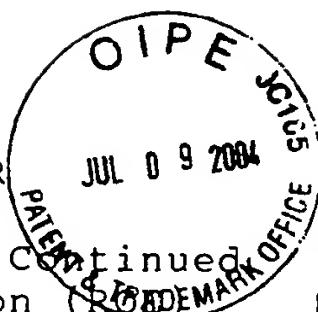
21543

Horst FARBER

Request for Continued
Examination (TRADEMARK OFFICE)
Transmittal
Copy of PTO 2038 pre-
viously submitted
for RCE fee of \$770.00

Ser. No. 09/603,528

Due 15 July 2004



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